

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>GABRIEL ROSA-DIAZ,</b>	:	<b>Civil No. 1:17-cv-2215</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>LAUREL HARRY, et al.,</b>	:	
	:	
<b>Defendant.</b>	:	<b>Judge Sylvia H. Rambo</b>

**ORDER**

Before the court is a report and recommendation filed by the magistrate judge in which he recommends that Defendants' motion to dismiss be granted in part and denied in part. No objections have been filed.

The court has reviewed the very thorough report which examined the facts and applied in detail the case law applicable to the facts, and concludes that the recommendation made by the magistrate judge should be adopted. Accordingly, **IT IS HEREBY ORDERED** as follows:

- 1) The report and recommendation of the magistrate judge is **ADOPTED**.
- 2) The motion to dismiss (Doc. 26) is **DENIED** with respect to the plaintiff's Eighth Amendment conditions of confinement claim against Defendants Digby, Harry, and Strohecker.
- 3) The motion to dismiss is **DENIED** with respect to the First Amendment retaliation claim brought against Defendant Harry.
- 4) In all other respects and as to all other defendants, the motion to dismiss is **GRANTED**.

5) The court will issue a separate case management order.

s/Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: July 16, 2018